

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 2011-317-WS

IN RE: Application of Kiawah Island)	KIAWAH ISLAND COMMUNITY
Utility Company for)	ASSOCIATION, INC.'S MEMORANDUM
Adjustment of Rates)	REGARDING PROPOSED ORDER

KICA supports the proposed order of KPOG with the following additions, modifications, clarifications, and supplemental support:

I. Additional Findings

KICA would add the following findings:

1A. Kiawah Island Community Association (“KICA”) is an association made up of approximately 8,000 members, who own approximately 4300 residential and commercial properties and are all customers and ratepayers of KIU. This is KICA’s first intervention in a KIU rate adjustment application.

II. Finding Number 12: “The Application has questionable public support...”

Additional support of note for this finding can be found in the letters of property owners William D. Rogers of American Water Works, Inc.; Robert L. Clement, Jr.; and the Hon. James V. Piet (KPOG Exhibit 1 to Public Hearing pp. 013-16, 54) (Attached to this Memorandum). Further support for this finding can be found in the transcript of the October 20, 2011, Public Hearing and William D. Roger’s pre-filed testimony.

III. Finding Number 13: “KIU currently is in discussions with the Town to purchase KIU...”

Additional support of note for this finding can be found at the Town of Kiawah Island’s website: www.kiawahisland.org. Of particular note would be the “Kiawah Island Utility Acquisition Schedule”:

http://www.kiawahisland.org/client_resources/updated%20kiawah%20island%20water%20sewer%20utility%20project%20timeline%20working.pdf This Commission may take judicial notice of this information pursuant to Rule 201, SCRE. Further support can be found in the testimony of Greg VanDerwerker and Arthur Morgenstern (October 20, 2011 Public Hearing transcript, pp. 24-27, 56-64) and the protest letters of Richard Bennett, Rhonwen Newton, & Lawrence Burpee, (KPOG Exhibit 1 to Public Hearing pp. 8, 39, 55).

IV. Finding Number 10: “...ORS could not support Phase II of the Application because the construction expenses were only estimated and could not be verified.”

KICA supports the eventual construction of the secondary water line and its addition to the rate base *after* it is bid, built, and audited, and is made “used and useful”. The protest letters and October 20, 2011 public hearing testimony show that there is support for the eventual construction of Phase II amongst the ratepayers.

Additionally, during the PSC’s November 2, 2011, hearing, KIU agreed to withdraw its Phase II request, and all parties have consented to this relief at the hearing (Trial Trans. pp. 88-90).

V. Finding Number 11: “...the Commission has identified certain affiliate transactions that were not conducted at arms length and which it believes to be unreasonable...”

It was the responsibility of KIU to present evidence to this Commission to prove that these transactions were reasonable. Hilton Head Plantation Utilities, Inc. v. S.C. Public Service Comm’n, 312 S.C. 448, 451, 441 S.E.2d 321, 323 (1994). These affiliate transactions (the Utility

Service Agreements, the Recent Land Purchases, the Lease and Sale of Cougar Island Tract, and the Management Fees) are not presumptively reasonable, and thus it was KIU's burden to prove them so. Without assessing the business or strategic implications of these transactions, the record contains insufficient evidence to meet KIU's burden, and thus these expenditures must be excluded from the consideration of the Commission.

VI. Findings Number 14 & 15

The Operating Margin requested by KIU (13.75%) is twice what KIU has obtained in the past. The Application of KIU, as a mature utility and a monopoly service provider, should be reviewed under a Return on Equity basis, as opposed to an Operating Margin basis. (See pre-filed testimony of Lanier p. 4). Under the analysis of Lanier (adjusting the rate base for the affiliated transactions), a Return on Equity of 9.5% would correspond to an Operating Margin of 7.19%, and a Return on Equity of 10.6% would correspond to an Operating Margin of 7.92%. (Lanier Exhibit LML-5). An operating margin range of 7.19% to 7.92% will provide KIU with the opportunity to earn a reasonable return. Such an increase would be consistent with prior orders of the Commission.

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Charleston, South Carolina
18 January 2012

CERTIFICATE OF SERVICE
2011-317-WS

I, the undersigned, do hereby certify that I have this 18th day of January, 2012, I filed a copy of Intervenor KICA's Memorandum Regarding Proposed Order via the Public Service Commission of South Carolina's electronic filing system, and on the same day emailed and mailed paper copies via the U.S. Mail, first class, postage prepaid, to the following addresses:

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